

A

REVIEW

OF THE

STATE

OF THE

BRITISH NATION.

Tuesday, June 3. 1707.

I Have twice been taken up in this Paper lately in reproving the Malice of those, who to amuse, terrifie and disorder the People, spread false Reports, write the Inventions of *their Party* for News, and endeavour as much as in them lies to reproach their own Country.

Their administering me *fresh Occasions* for this Censure, every day occasions, that I cannot but make mention of it ; I confess, it is a most detestable Practice, and merits the Abhorrence of every honest Man, and I cannot but think it the Duty of every Man, that seeks a peaceable Issue of things, to detect and expose the Malice and Folly of it both together.

And as I am more particularly conversant with their Endeavours in the *North Part* of *Britain*, where they think this Method

may be most useful to them; so I cannot but own, the Mischief, they do there to amuse and disquiet honest but credulous People, is extraordinary.

To come to Particulars. First, the written News from the *South* acquaints them, that notwithstanding the Lords have thrown out the Bill about the Wine and Brandy, yet the *Lawyers* have found out a Method wholly to stop the Importation of it into *England*, and not break the *Union*. And this being reprinted at *Edinburgh*, is spread over the whole Kingdom. What the evil Consequences of these things are, I shall not at present enter upon, and I hope Time and Truth may restore the Judgments of those that are mistaken : But I come first to the *Fact*.

s. 'Tis

1. 'Tis manifest, that both in the House of Commons and the House of Lords, this Matter could not be found out; the Commons, in meer Regard to Justice and to Law, found it necessary to make a Provision for the Subjects of that Part of Britain, call'd Scotland, and in two Attempts to prevent the Frauds and Mischiefs of the Tobacco, and the foreign Importations, they found themselves oblig'd still to continue this Amendment, and admit every thing, which Scots Men had really and bona Fide entred there upon the common Course of Trade, and their own Personal Risque.

2. 'Tis plain, the House of Lords saw the Matter so nice, and the Temper of the People so forward to mis-represent and reflect; that they found the whole went so near the Brink of the Union, the Distinctions would be so hard to be made, and the Branches on either side might be so apt to interfere, that holding the Union as sacred, they chose rather to suffer any Inconvenience, than trespass on the general Peace, and therefore rejected the whole.

Now, were it not that the Matter is too serious to make a Jest of, and the Consequences of these things are really weighty, and in some Respects of the last Moment to us, it might be Matter of very good Mirth, and very much of it too, to observe,

1. That if what our News monger says, is true, the Lawyers have found out some Law, that neither Lords or Commons knew any thing of.

From whence it will necessarily follow, that all their Care and Concern that way was a needless Impertinence, had no Signification, and had no Foundation, but in their own Ignorance; it had no Signification, because whether it was done or no, matter'd not a Farthing, for that the Lawyers can do it without them; it had no Foundation, but in their Ignorance, since if they had known there had been a good Law to regulate it already, they would certainly never have propos'd making a new One.

I think 'tis very plain, that if the Law has already settled this Matter, making more Laws to direct the same, had been needless and consequently impertinent; if it be said,

they might make Laws to enforce or explain, *that is answer'd in this Case*, that if these Laws do effectually stop the Importation, then they are effectual enough to the thing, and need no enforcing; and as to Explanation, the thing the House of Commons were upon, viz. To except the ~~Scott~~ Property, was indeed such an explaining the Laws, and declaring the Sence of the House on that Occasion, that 'tis very odd to hear the Lawyers can explain it otherwise.

What Tricks in the Law these Gentlemen, who thus set up for Law Explainers, may have found out, I know not; but *this I know*, and this in my little Compass I must lay down as GOOD LAW; that whatever Law, Statute or Act of Parliament there are, which shall in anywise contravene the Articles of the Treaty of Union, they cease from the 1st of May, are no more Laws, but are *Ipso facto* repealed and rescinded by the Union.

And I must take Liberty to add one thing more, which tho' I advance it on my own Authority, yet if it be not true, all we have said, or been saying, or doing on one side or the other, signifies nothing, and the Union is a meer *Je ne sçay quoi*, a Man of Straw, a Meteor or Vapour, without Form, without Substance, and without Signification, and *that is this*.

That if any Act of Parliament in Britain shall for the future be made, pass'd or sign'd, or attempted to be made, pass'd or sign'd, in order to be accepted as a Law—And which shall in any Respect contravene, contradict or infringe the Union; It is so far no more a Law, the Parliament of Britain has no Power to make it, the Subjects of Britain can have no Obligation upon them to regard it.

If by Power it should be enforc'd as a Law, and impos'd upon the People, that Power is from thence forth so far tyrannical and unjust, and what the Subjects may do in such Case, I need not examine.

Upon these fundamental Principles of Right and Law, I think 'tis easie to prove, the Lawyers, *whatever they may pretend to*, of the Foreign or English Importations cannot, and I dare say they will not, pretend to bring

bring any Law against the native Subjects of Scotland, residing in Scotland, and who by the Treaty are from the 1st of May to have a free Intercourse of Trade, importing Goods from thence into England, or selling any Goods to England, which in their ordinary Course of Trade, they *bona Fide* imported on their own Accounts, and which they paid the lawful Duties for before the 1st of May.

I know there is a Scruple rais'd, that the Merchants in Scotland obtain'd of the *Tax-Men* there, a Rebate of Duty, which was a prompting this large Importation, and which is in it self a Fraud upon the Law.

But the Weight of this Objection will turn upon two Points, and there I shall leave it to be detected hereafter. (1.) Had the *Tax-Men*, that is in England, the Collectors of the Customs a legal Power to make Abatements or Complications, or had they not? (2.) Did they upon these Importations make any other or larger Abatements, than what had been usual to be made in like Occasions, before this Circumstance came upon the Stage?

It is my Opinion, that these Articles will be found to turn to the Advantage of the *Scotts* Merchant, if they are both punctually and clearly answer'd.

I shall not enter any farther here into the Merits of the Case, I am not pleading any Body's Cause; but I am upon the People spreading Reports, and raising Doubts in the Minds of the Subjects of both Nations, from the Judgment of Lawyers.

Let me next say a Word or two about the Judgment of Lawyers, and I must in that Case observe one thing, which I hope, the Gentlemen of the Gown will not see Reason to be offended at, *viz.* That I hardly ever knew a Case, in which there were not Lawyers to be found, who would give the Right to either side; that the Council on one side shall tell the Plaintiff he has the Right, and the Council on the other side shall do the like for the Defendant.

And after all, Gentlemen, this may not be the Councils Fault neither; but the Error of the Gentlemen that go to them for Advice, and who represent their respective Causes in a different Shape, and different from the Truth.

Now, if your Trumpet gives thus an uncertain Sound, who shall prepare themselves for the Battle; if you give your Physician a wrong Account of your Disease, he is not to be blamed if he gives you Poison for Physick; if you come to the Council, and state your Case wrong, he must of Necessity give you wrong Advice, and the Fault is not his, but your own.

Who they are that in this Case have consulted the Lawyers, or who the Lawyers are that have been consulted, or what Account they have given them of the Case they consulted them upon, remains a Doubt; and the News-writer has not thought fit to resolve it, nor I believe, can he resolve it.

But after all, suppose the Lawyers have thus found out some Clause, which may in their Opinion solve this Matter; I must observe, that it is but in their Opinion, and the Opinion of a Lawyer makes not the Law, I shall therefore add this—That the Gentlemen have the Law it self to depend upon, which is superiour to the Opinion of the Lawyers, nor are the Lawyers Expositors of the Law, and the Parties cannot doubt of Justice, whenever they think fit to seek Redress; and the Subordination of our Courts of Justice one to another, and of All to the supreme Judicature, the House of *Peers*, where this Case seems to me to have had some Sort of a Decision; this I say, is a Security, that the Merchants shall have Justice in the Case, whatever the private Opinions of Lawyers may determine; and for this Reason, spreading the Opinion of private Lawyers, as the Determination of the Law, is a manifest Plot on the publick Peace, and signifies to me, that there is no more in it, than a Design of ill People to amuse us.

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